

1 BY MR. LEVIN:

2 Q. A couple questions. Kim, to clarify a few
3 things, at the time of this incident, you were
4 employed by Aureus?

5 A. Yes.

6 Q. You received a paycheck from Aureus?

7 A. Yes.

8 Q. And you were an independent contractor?

9 A. Yes.

10 Q. Did anyone at Christiana Hospital supervise
11 your activities as an x-ray technician?

12 A. No.

13 Q. Did anyone at Christiana Hospital train you how
14 to operate an x-ray machine?

15 A. No.

16 Q. Did anyone at Christiana Hospital train you in
17 how to deal with patients in administering x-rays?

18 A. No.

19 Q. Were you given any protocols or procedures in
20 the administration of x-rays by Christiana Hospital?

21 A. No.

22 Q. This individual, Dawn Spitnik, did she
23 supervise your x-ray technician activities at
24 Christiana Hospital?



1 A. No, she was just a dispatcher and told me where
2 I was needed that day.

3 Q. And that's all that she did in connection with
4 your activities in Christiana Hospital; is that
5 correct?

6 A. Yes.

7 Q. And you had been working as an independent
8 contractor with Aureus prior to Christiana Hospital.
9 Is that correct?

10 A. Yes.

11 Q. And the worker's compensation that you were
12 receiving, that is through Aureus?

13 A. Yes.

14 Q. And Wausau Insurance Company, the comp
15 provider, is Aureus's comp carrier. Is that correct?

16 A. Yes.

17 Q. And to be clear, Lydia Adair, to your
18 knowledge, is an employee of Christiana Hospital,
19 correct?

20 A. Yes.

21 Q. You indicated that now you're working three
22 days a week, and there is a day in between during the
23 week that you are resting. Is that correct?

24 A. Yes.



1 Q. And why do you require that day in between of
2 rest?

3 A. The pain and swelling. There's no way I can do
4 two long days back to back.

5 Q. I see. Now, prior to this accident, you were
6 working 40 hours a week?

7 A. Yes.

8 Q. Are you able to work 40 hours a week now as an
9 x-ray technician?

10 A. No.

11 Q. Why is that?

12 A. Because I'm required to be on my feet, and the
13 pain and swelling is too much.

14 Q. I see. And is your understanding that this
15 will be a permanent part of your life?

16 A. Yes.

17 Q. Did you receive a paycheck directly from Aureus
18 or was it direct deposit?

19 A. It was direct deposit. I received a stub in
20 the mail.

21 Q. And you never signed any contracts with
22 Christiana Hospital. Is that correct?

23 A. No.

24 Q. Yes, that is correct?



1 A. Yes, that is correct.

2 Q. And since this accident, am I correct that you
3 have not returned to full-time employment as an x-ray
4 technician?

5 A. Correct.

6 Q. At some part of your testimony you indicated
7 that you were looking for a job in one of the
8 locations you were living but could not find
9 employment. Do you recall that?

10 A. Yes.

11 Q. And is that because you could not find
12 employment part time?

13 A. Yes, with the hour stipulations, the four hours
14 a day part time.

15 Q. And those four hours a day, was that limitation
16 prescribed to you by a physician?

17 A. Yes.

18 Q. And which physician said to you you could only
19 work four hours a day as an x-ray technician?

20 A. Dr. Bellis.

21 Q. And in connection with what injury you
22 sustained in this accident limits you from working
23 four hours a day?

24 A. The pain and the swelling from the RSD that



1 I'll have for the rest of my life.

2 Q. Incidentally, prior to this incident, had you
3 ever injured your left leg before?

4 A. No.

5 Q. During your testimony there was a discussion
6 that after the incident you had stepped off a curb and
7 fractured your fourth metatarsal.

8 A. Yes.

9 Q. That's your toe next to your pinky toe; is that
10 right?

11 A. Yes.

12 Q. And what is your understanding of how that
13 metatarsal was fractured?

14 A. From the osteopenia, it's a form of
15 osteoporosis where the bones are weak. The RSD causes
16 that.

17 Q. While you were working on behalf of Aureus, in
18 connection with your answer to interrogatories, it
19 says that your housing was fully furnished and paid
20 for by Aureus?

21 A. Yes.

22 Q. Your phone and cable were paid for by Aureus?

23 A. I was reimbursed for that through Aureus.

24 Q. I see. And 12 percent of your earnings went



1 into a 401(k)?

2 A. Yes.

3 Q. And that was offered to you by your employer,
4 Aureus?

5 A. Yes, and they matched it.

6 Q. And they matched it. And also you got a dental
7 plan with Aureus?

8 A. Yes.

9 Q. And health insurance as well?

10 A. Correct.

11 Q. Currently in the radiology facility you work at
12 in Arizona, are you receiving these benefits?

13 A. No.

14 Q. Is it your understanding that you'll ever be
15 able to return to full-time employment as an x-ray
16 technician?

17 A. Can you repeat that, please?

18 Q. Certainly. It was poorly phrased.

19 As far as you know, will you ever be able
20 to return to full-time employment as an x-ray
21 technician?

22 A. No.

23 Q. What's that?

24 A. No.



1 MR. LEVIN: No further questions.

2 BY MS. MASSARO:

3 Q. I just have one quick follow-up. Has a doctor
4 ever told you that you will not be able to return full
5 time as an x-ray technician --

6 A. Yes.

7 Q. -- to work? And who was that?

8 A. Dr. Bellis.

9 Q. Okay.

10 A. Dr. Duwanjee.

11 Q. Duwanjee.

12 A. Um-hum.

13 MS. MASSARO: Okay, I have no other
14 questions. Thank you.

15 MR. LEVIN: No follow-up questions.

16 I'll ask you. You have an opportunity to
17 read and sign the deposition, would you like to do
18 that? This is off the record.

19 (Discussion held off the record.)

20 (Reading and signature were waived.)

21

22

23

24



I N D E X

Deponent: KIMBRA CRISWELL	<u>Page</u>
By Ms. Massaro.....	2
By Mr. Levin.....	76
By Ms. Massaro.....	82

E X H I B I T S

<u>Criswell:</u>	<u>Page</u>
1 Photocopy of Two Photographs	17
2 Photocopy of Photograph	19
3 Photocopy of Five Photographs	21
4 Photocopy of Photograph	62
5 "Pg. 2 of 3, New Model - GE - CT Portable X-rays AMS-4+"	62



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
CERTIFICATE

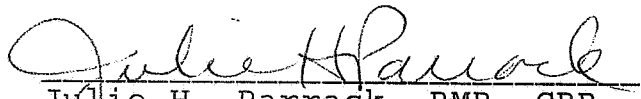
STATE OF DELAWARE)
)
NEW CASTLE COUNTY)

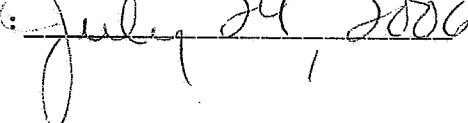
CERTIFICATE OF REPORTER

I, Julie H. Parrack, Registered Professional Reporter and Notary Public, do hereby certify that there came before me on the 14th day of July, 2006, the deponent herein, KIMBRA CRISWELL, who was duly sworn by me and thereafter examined by counsel for the respective parties; that the questions asked of said deponent and the answers given were taken down by me in Stenotype notes and thereafter transcribed by use of computer-aided transcription and computer printer under my direction.

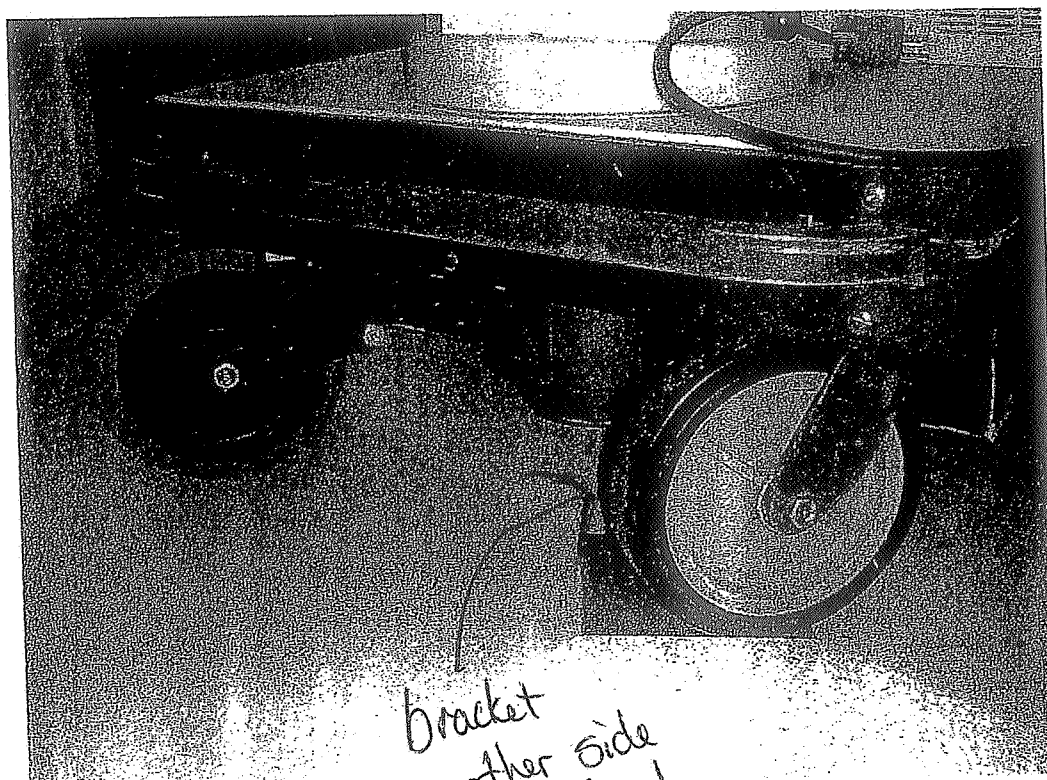
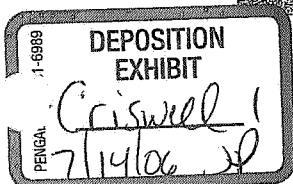
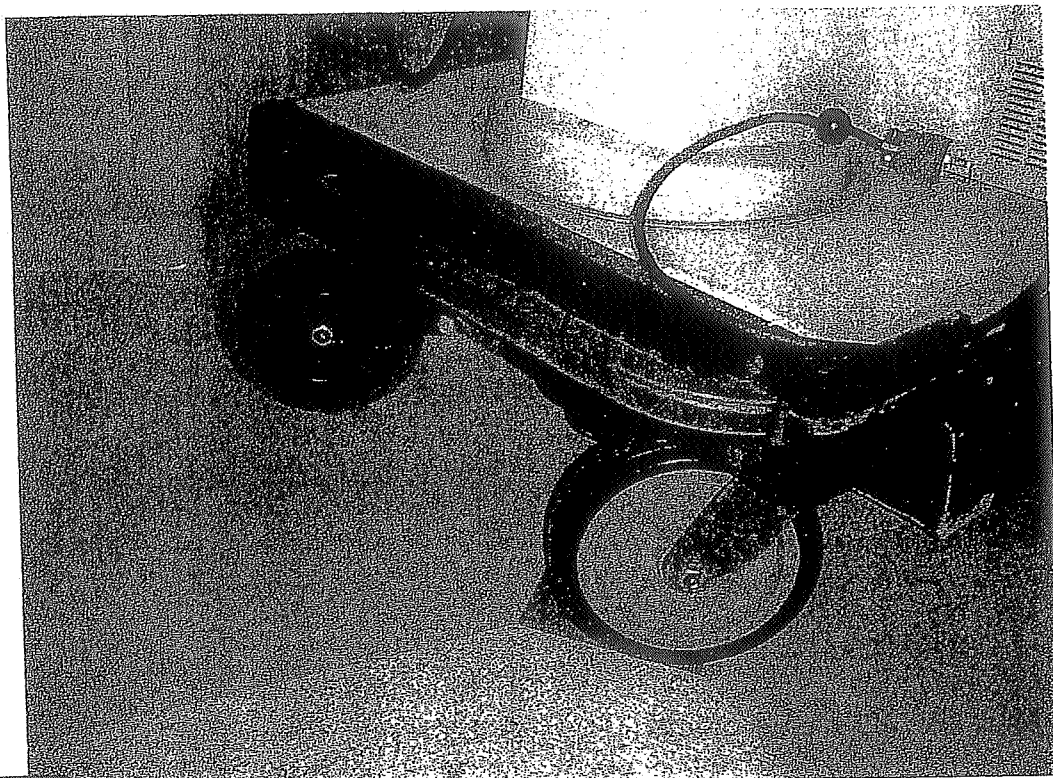
I further certify that the foregoing is a true and correct transcript of the testimony given at said examination of said witness.

I further certify that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit.


Julie H. Parrack, RMR, CRR
Certification No. 102-RPR
(Expires January 31, 2008)

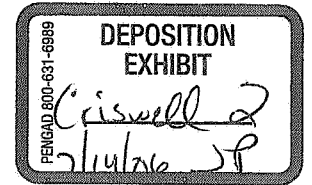
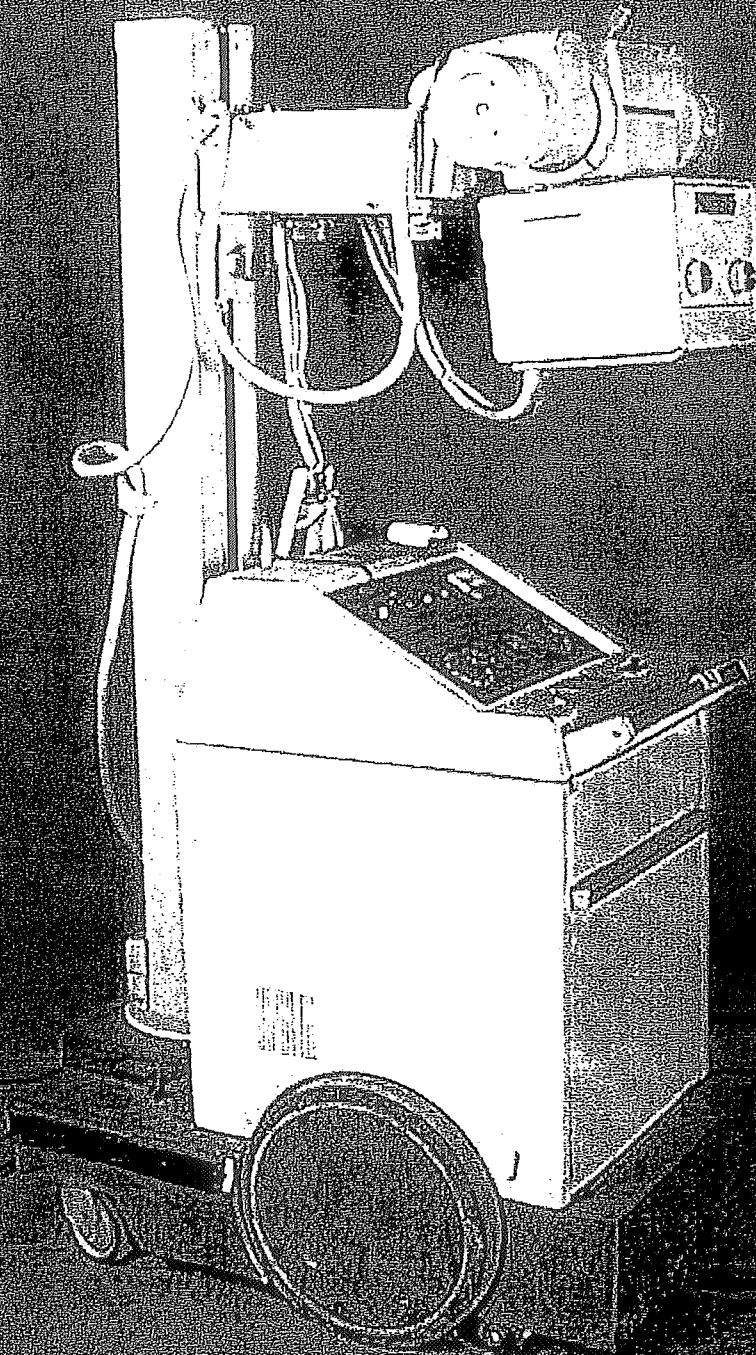
DATED: 





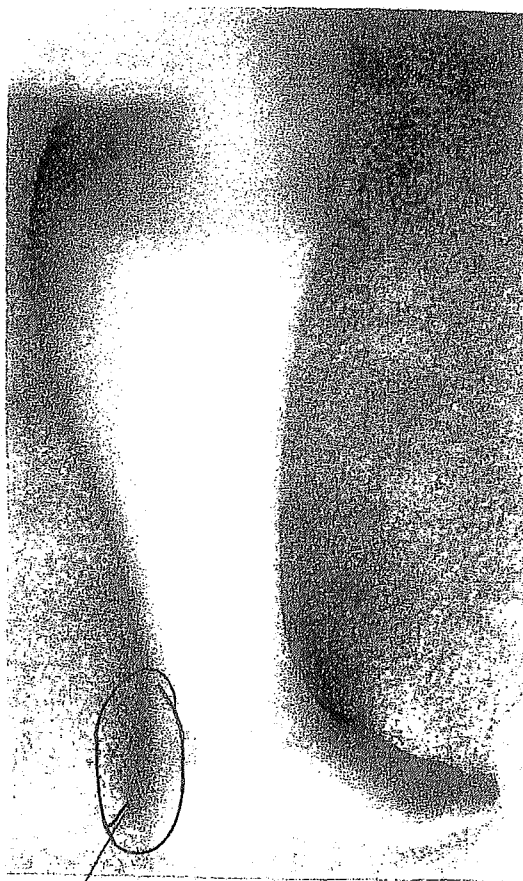
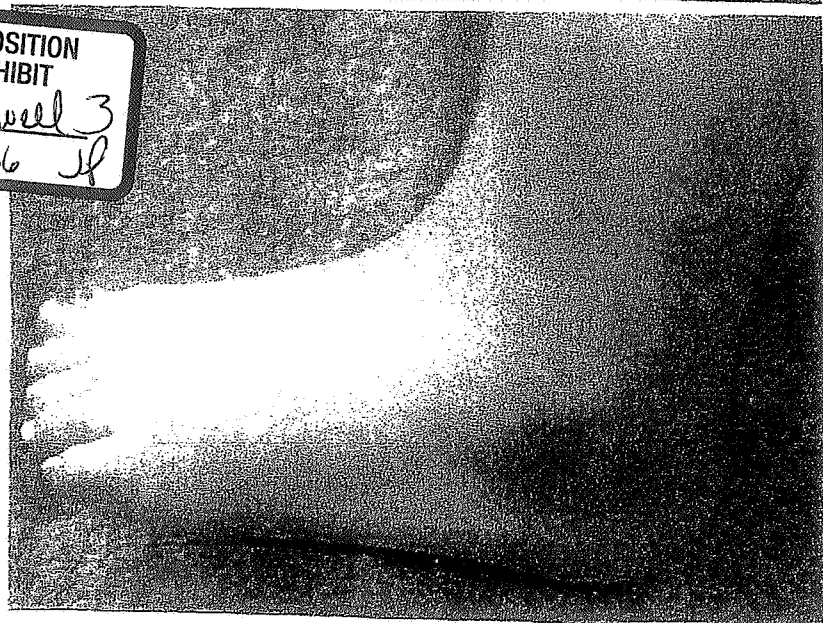
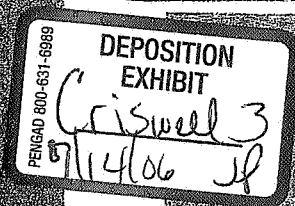
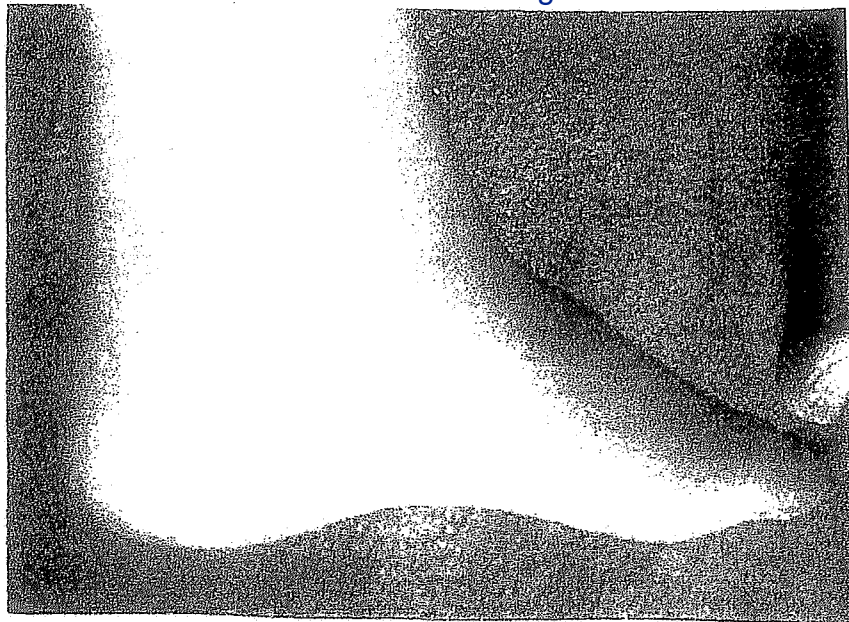
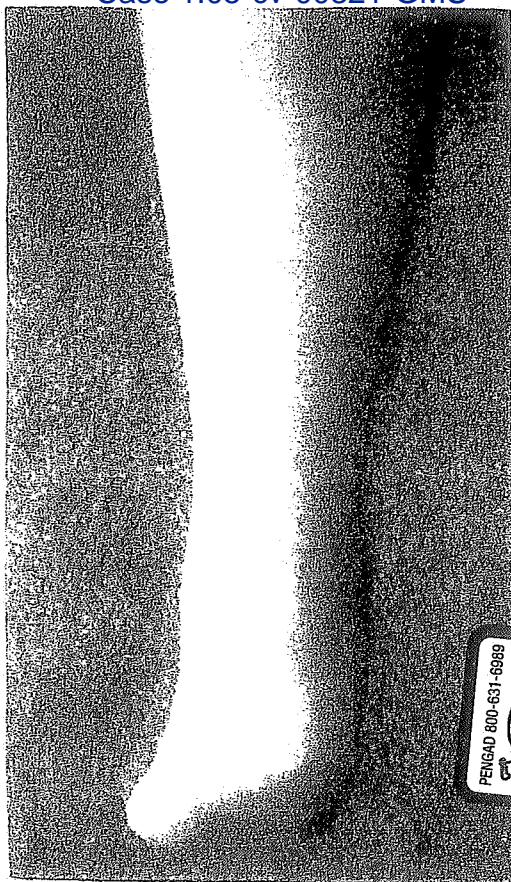
bracket
on other side
of wheel

NOT machine / what looks like

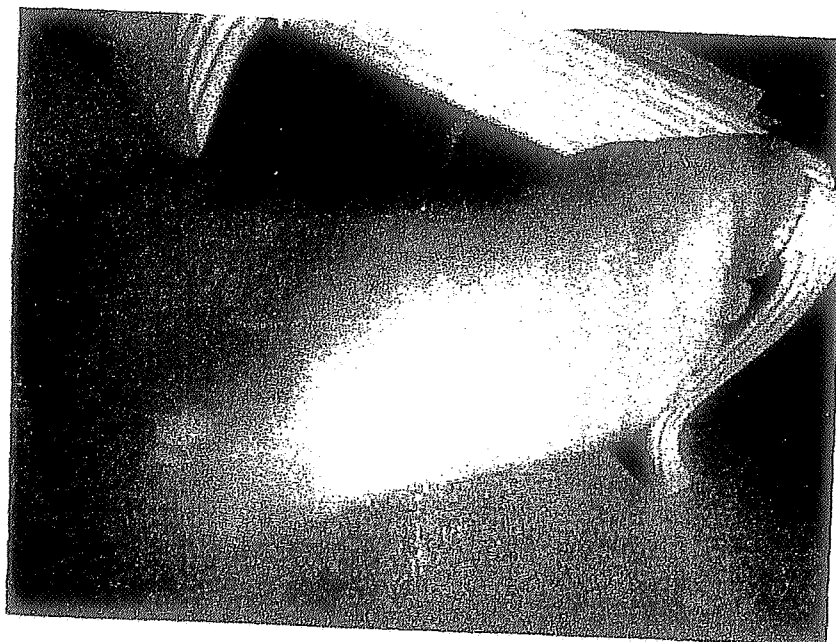


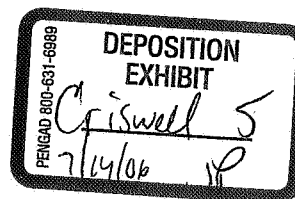
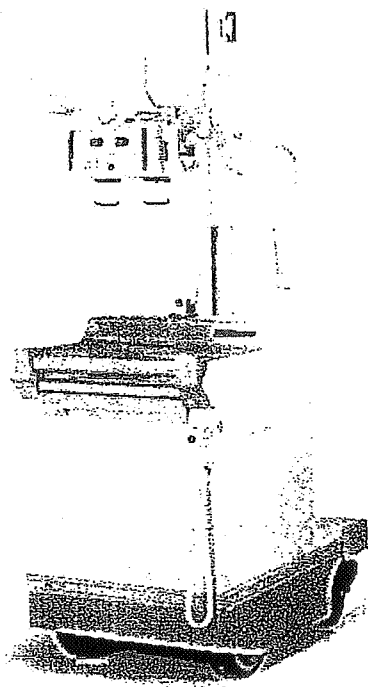
B
A
C
K

A000086



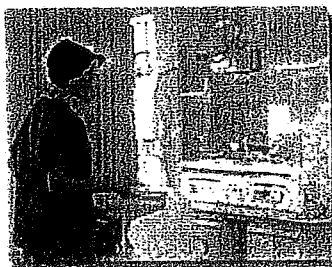
↓ where machine hit heel





The image quality of a stationary system

With the AMX-4+, there's no need to choose between patient comfort and quality of exam results. Capabilities such as these deliver the same level of image quality typically only achievable with stationary systems:



- Its wide range facilitates even difficult lateral-hip and spine studies.
- Digital microprocessor control delivers extremely accurate and consistent technique output from exposure to exposure, regardless of battery charge.
- Excellent generator-output accuracy and reproducibility translate into excellent results the first time.
- Closed-loop feedback regulates kVp throughout exposures, eliminating the voltage fluctuations traditionally associated with mobile units.

Extraordinary reliability and durability

The AMX-4+ is designed for nonstop performance in even the most taxing "bump and run" environments. Features include:

- Maintenance-free, rechargeable lead/acid battery produces up to 50 exposures on a single charge.

A000088

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

KIMBRA CRISWELL,)	C.A. No. 05-CV-00321 GMS
)	
Plaintiff,)	
v.)	JURY TRIAL DEMANDED
)	
LYDIA ADAIR MCFADDEN and CHRISTIANA)	
CARE HEALTH SERVICES, INC.,)	
)	
Defendants.)	

AFFIDAVIT

STATE OF DELAWARE :
 : SS.
COUNTY OF NEW CASTLE :

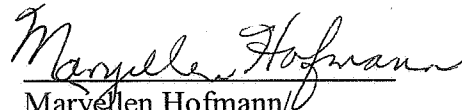
BE IT REMEMBERED that on this 13th day of OCTOBER 2006, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, Maryellen Hofmann (deponent), who, being duly sworn according to law did say that:

- a) he/she is employed by Christiana Care Health Services, Inc. as a Radiology Section Supervisor;
- b) he/she is authorized to make this affidavit on behalf of Christiana Care Health Services, Inc.;
- c) the facts set forth in this affidavit are based upon personal knowledge;
- d) he/she is over eighteen years of age;
- e) in May of 2002, including on May 23, 2002, I was employed by Christiana Care Health Services, Inc. (CCHS) as a Radiology Section Supervisor.

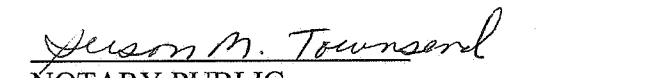
f) I am familiar with the terms of the agreement between CCHS and Aureus dated April 17, 2001, related to the services of Plaintiff.

g) as part of my duties in May of 2002, I was responsible for establishing Plaintiff's work schedule, telling her where to report, and supervising and directing her work at CCHS;

h) CCHS provided Plaintiff with x-ray equipment for use at CCHS, and maintained control over the use of the equipment at all times.


Maryellen Hofmann
Radiology Section Supervisor

SWORN AND SUBSCRIBED before me this 13th of OCTOBER, 2006.


NOTARY PUBLIC
commission expires 10/2/2007